

# Vote Record

## Assembly Committee on Housing

Date: \_\_\_\_\_  
Moved by: \_\_\_\_\_ K  
AB: 770  
AB: \_\_\_\_\_ SB: \_\_\_\_\_  
AJR: \_\_\_\_\_ SJR: \_\_\_\_\_  
A: \_\_\_\_\_ SR: \_\_\_\_\_  
Seconded by: H  
Clearinghouse Rule: \_\_\_\_\_  
Appointment: \_\_\_\_\_  
Other: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

Be recommended for:

- ☒ Passage  
☐ Introduction  
☐ Adoption  
☐ Rejection

- ☐ Indefinite Postponement  
☐ Tabling  
☐ Concurrence  
☐ Nonconcurrence  
☐ Confirmation

### Committee Member

Rep. Tom Sykora, Chair

Rep. Steve Wieckert

Rep. Neal Kedzie

Rep. Lorraine Seratti

Rep. Tom Hebl

Rep. Johnnie Morris-Tatum

Rep. Marty Reynolds

Aye	No	Absent	Not Voting
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Totals: 7 0 \_\_\_\_\_

☒ Motion Carried

☐ Motion Failed

# History of Assembly Bill 770

## ASSEMBLY BILL 770

An Act to renumber 710.15 (1m); to amend 710.15 (1) (a), 710.15 (1) (c), 710.15 (1) (d), 710.15 (2), 710.15 (4) and 710.15 (5m) (intro.); and to create 710.15 (1m) (b) and 710.15 (6) of the statutes; relating to: rentals of mobile homes and termination of tenancies in mobile home parks.

2000

02-17.	A.	Introduced by Representatives Sykora and F. Lasee.	
02-17.	A.	Read first time and referred to committee on Housing	
		.....	670
02-23.	A.	Public hearing held.	
02-28.	A.	Executive action taken.	
03-02.	A.	Report passage recommended by committee on Housing,	
		Ayes 7, Noes 0 .....	694
03-02.	A.	Referred to committee on Rules .....	694
03-02.	A.	Placed on calendar 3-7-2000 by committee on Rules.	
03-07.	A.	Read a second time .....	707
03-07.	A.	Assembly amendment 1 offered by Representative Sykora	
		.....	707
03-07.	A.	Assembly amendment 1 adopted .....	707
03-07.	A.	Ordered to a third reading .....	707
03-07.	A.	Rules suspended .....	707
03-07.	A.	Read a third time and passed .....	707
03-07.	A.	Ordered immediately messaged .....	707
03-08.	S.	Received from Assembly .....	479
03-08.	S.	Read first time and referred to committee on	
		Economic Development, Housing and Government	
		Operations .....	480
04-06.	S.	Failed to concur in pursuant to Senate Joint	
		Resolution 1 .....	583

## Text of Assembly Bill 770

## Search for another history

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**TOM SYKORA**  
STATE REPRESENTATIVE

TO: Members of the Legislature

FROM: Representative Tom Sykora

DATE: February 4, 2000

RE: Co-sponsor request for LRB-3785, relating to rentals of mobile homes and termination of tenancies in mobile home parks

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Under current law there are a few provisions that regulate mobile home parks, including definitions of those associated with mobile home parks (i.e., mobile home occupant, resident and operator). These definitions tend to pose a gray area for mobile home park owners who are trying to maintain control of their park.

I will be introducing LRB-3785 to clarify the definitions and lease agreements between mobile home park owners and their residents. The LRB analysis is printed below.

If you are interested in signing on as a co-sponsor, contact Sara at 6-1195. ***The deadline is Friday, February 11.***

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***Analysis by the Legislative Reference Bureau***

Current law contains some provisions that regulate mobile home parks, such as prohibiting a mobile home park operator from requiring the removal of a mobile home because of its age and specifying the bases on which a tenancy in a park may be terminated or not renewed. A "mobile home occupant" is defined as a person who rents a mobile home site in a park from an operator. A "resident" is defined as a person who rents a mobile home site in a park from an operator. An "operator" is defined as a person engaged in the business of renting mobile home sites or mobile homes in a park. Thus, a resident who rents out mobile homes that he or she owns and that are located on sites that he or she rents from an operator may also be considered an operator under the statute.

This bill changes the definition of "operator" by adding that an "operator" does not include a resident or a mobile home occupant. The bill also changes the definition of "mobile home occupant" so that anyone who rents a mobile home in a park, regardless of whether the home is rented from the operator or a resident, is a mobile home occupant. In addition, the bill provides that a resident may not rent out a mobile home that he or she owns in a park unless the operator approves the rental and is a party to the agreement.

The bill provides that a park owner or operator may require that each mobile home in a park be occupied only by a person who rents the mobile home from the operator or a person who owns the mobile home that he or she is occupying. This provision may not be used to terminate

a tenancy but it may be the basis for not renewing a lease. This provision is also an exception to the current law provision that prohibits an operator from requiring the removal of a mobile home from a park *solely or in any part* because the ownership or occupancy of the mobile home has changed or will change. The bill changes this provision by prohibiting an operator from requiring the removal of a mobile home from a park, and from refusing to enter into an initial lease with a prospective resident or mobile home occupant, *solely* because the ownership or occupancy of the mobile home has changed or will change. An operator may, however, refuse to enter into an initial lease, or disapprove a sublease, for any other lawful reason.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3785/P1dn  
PJK:jlq:km

November 16, 1999

There are many approaches to resolving the problem that you related. The approach in this draft is just one. You may want to be more specific to the fact situation. You may simply want to repeal s. 710.15 (4). You may want to specifically allow termination of tenancy under s. 710.15 (5m) for a reason more closely related to your fact situation. Section 710.15 (1m) (b), created in this draft, may be sufficient for your purposes. In any case, any change may affect a current tenancy only at renewal. Let me know how you wish to proceed.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: Pam.Kahler@legis.state.wi.us



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3785/P1

PJK:jlg:km

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 **AN ACT to renumber 710.15 (1m); to amend 710.15 (1) (a), 710.15 (1) (c), 710.15**  
2 **(1) (d), 710.15 (2), 710.15 (4) and 710.15 (5m) (intro.); and to create 710.15 (1m)**  
3 **(b) and 710.15 (6) of the statutes; relating to: rentals of mobile homes and**  
4 **termination of tenancies in mobile home parks.**

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 5 **SECTION 1.** 710.15 (1) (a) of the statutes is amended to read:  
6 710.15 (1) (a) "Lease" means a written agreement between an operator and a  
7 resident ~~or, between an operator and a mobile home occupant or among an operator,~~  
8 a resident and a mobile home occupant establishing the terms upon which the mobile  
9 home may be located in the park or the mobile home occupant may occupy a mobile  
10 home in the park.

1 in sub. (6), an operator may refuse to enter into an initial lease with a prospective  
2 resident or mobile home occupant for any other lawful reason, *including but not limited*  
3 *to sub (6)*

SECTION 8. 710.15 (5m) (intro.) of the statutes is amended to read:

4 710.15 (5m) TERMINATION OF TENANCY OR NONRENEWAL OF LEASE. (intro.)  
5 Notwithstanding ss. 704.17 and 704.19, and except as provided in sub. (6), the  
6 tenancy of a resident or mobile home occupant in a park may not be terminated, nor  
7 may the renewal of the lease be denied by the park operator, except upon any of the  
8 following grounds:

9 *See 710.15 (1m)(b)*  
SECTION 9. 710.15 (6) of the statutes is created to read:

10 710.15 (6) PERMITTED OCCUPANCY REQUIREMENTS. (a) A park owner or operator  
11 may require that a mobile home in a park may be occupied only by any of the  
12 following:

13 1. A person who rents a mobile home that is not owned by a resident from the  
14 operator.

15 2. A person who owns the mobile home that he or she is occupying.

16 (b) If a park owner or operator makes a determination under par. (a) that will  
17 result in the termination of the tenancy of a mobile home occupant or resident, the  
18 tenancy may be terminated only at the end of a lease term.

\*\*\*\*NOTE: Section 710.15 (1m) (b) may eliminate the need for this provision. If you  
want to keep this provision, do you want to specify any amount of time for providing notice  
to an affected party before the end of a lease term?

19 SECTION 10. Initial applicability.

20 (1) The treatment of section 710.15 (1) (a), (c) and (d), (2) and (6) (a) of the  
21 statutes, the renumbering of section 710.15 (1m) of the statutes and the creation of

*grandfather  
clause  
?*

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NEIL HOBBS, OF COUNSEL

December 8, 1999

**VIA FACSIMILE: 608-255-5595**

Mr. Ross Kinzler  
Wisconsin Manufactured Housing Association  
202 State Street, Suite 200  
Madison, WI 53703-2215

**VIA FACSIMILE: 608-264-6999**

Rep. Tom Sykora  
Office 602-SF  
P.O. Box 8953  
Madison, WI 53708-8953

Re: Proposed Amendments of Sec. 710.15, Stats.

Dear Ross and Representative Sykora:

First, let me say that Mr. Flood and I very much appreciate the opportunity to comment on these proposed amendments. After discussing the proposal with Mr. Flood, our comments are as follows:

The proposed sec. 710.15(1m)(b) provides in part: "A resident may not agree to rent a mobile home in a park to a prospective mobile home occupant unless the operator of the park approves the rental and is a party to the agreement" (my emphasis). The subsection then provides a similar right of approval for renewal of preexisting subleases. The existing definition of "resident" under sec. 710.15(1)(f), Stats., remains unchanged. I realize that the Court of Appeals has now held that this definition includes a sublessor who does not "reside" under any normal use of the term. However, should a subsequent case reach the Supreme Court, such a person would be free to argue that he is not a resident and therefore not restricted by sec. 710.15(1m)(b). We therefore believe that if the legislature follows this route that some consideration should be given to clarifying sec. 710.15(1)(f) in the following manner: "'resident' means a person who rents a mobile home site in a park from an operator, regardless of whether such person resides in, or occupies, any mobile home located upon the site."



December 8, 1999

Page 2

The proposed amendment of sec. 710.15(1)(d), Stats. states: "'Operator' does not include a resident." Should mobile home occupants also be excluded from the definition?

Section 710.15(4), Stats. is the existing subsection that prohibits an operator from requiring the removal of a home because of a change in occupancy. The proposed amendment makes this prohibition subject to a newly created subsection 6, which permits an operator to require that a mobile home in his park be occupied only by those who either rent a mobile home from the operator or who own the mobile home that they are occupying. We have no quarrel with this approach. However, subdivision "b" of subsection 6 provides that: "If a park owner or operator makes a determination under par. (a) that will result in the termination of the tenancy of a mobile home occupant or resident, the tenancy may be terminated only at the end of a lease term" (my emphasis). Query: If a resident fails to obtain the approval of the operator, as required under (1m)(b), before renting his mobile home to an occupant, may the operator immediately terminate the resident's tenancy or would the operator's decision not to tolerate the rental constitute a "determination under par. (a)" as set forth in (6)(b)? We would expect that a resident's violation of (1m)(b) would be grounds for immediate termination of the resident's tenancy. If that is what is intended (and we believe that this indeed should be the intent), should a subdivision be added to (5m) to clarify that this would be grounds for immediate termination?

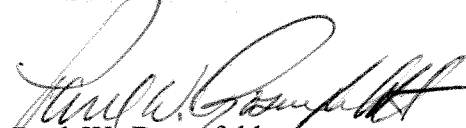
The existing text of sec. 710.15(4), Stats. contains the expansive qualification that an operator may refuse to enter into an initial lease "for any other lawful reason." The amendment would preface this provision with the exception: "except as provided in subsection 6." However, sub. 6 would also expand the operator's rights. Therefore, the proposed exception confuses us. Should it be omitted?

Lastly, the proposed subsection 6 would provide in part that an operator may require that a mobile home "be occupied only by any of the following: 1. A person who rents a mobile home that is not owned by a resident from the operator." It seems to us that the use of the clause "that is not owned by a resident" is confusing and unnecessary.

We thank you again for your consideration of these comments. We would appreciate it if you would keep us advised as the drafting process moves forward.

Respectfully,

EDGARTON, ST. PETER, PETAK,  
MASSEY & BULLON



Paul W. Rosenfeldt

PWR/jap

cc: Mark Flood



# Wisconsin Manufactured Housing Association

Ross Kinzler, Executive Director

202 State Street, Suite 200

Madison, WI 53703-2215

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608-255-3131

608-255-5595 Fax



September 14, 1999

Rep. Tom Sykora

PO Box 8953

Madison, WI 53708

Dear Rep. Tom Sykora:

We'd like to bring to your attention a court decision that disregarded the clear intent of the Legislature. Many years ago, the Legislature adopted s. 710.15 which provides certain protections for owners of mobile homes located in mobile home parks. For example, the statute requires that park owners offer at least a one year written lease and that evictions must be for specified causes.

In *Benkowski v. Flood*, the Wisconsin Court of Appeals (District II) found that Mr. Benkowski was a "resident" within terms of the statute despite clear legislative history that he was not. In this case, Mr. Flood, the park owner, told Mr. Benkowski who owned four homes in the mobile home park that he desired to have owner occupied homes and not rentals. Once a renter, moved out, Mr. Flood sought to require that Mr. Benkowski sell the home to a person who would become an owner-occupant or to remove the home from the park. Mr. Flood's experience (as is common in the industry), is that owner-occupants have more home pride, follow the lease better and are just more responsible.

Mr. Benkowski sued claiming that the statute prohibits the park operator to require a home to be removed from the park because of a change of ownership or occupancy. Flood countered that he was not requiring the home to be removed because of a change of ownership or occupancy, instead he was requiring a change of ownership or occupancy. Benkowski also asserted that the statute provided these protections because he was a resident. A resident is defined as a person who rents a site from a park operator. [Flood countered that the same statute defines an operator as a person engaged in the business of renting plots of ground or mobile homes in a mobile home park ... Therefore, he asserted that Benkowski was really an operator. In addition, he pointed to Legislative history that indicated clearly that the Legislature was attempting to protect the mobile home owner that was the owner-occupant.

Remembering that Mr. Benkowski still has only a one-year lease, Mr. Flood is perplexed how he ever will regain control of his own mobile home park. The statute needs to be clarified. I'd like stop by and discuss this situation with you.

Sincerely,

Ross Kinzler  
Executive Director

(b) "Depositor" means a person who, by agreement with a financial institution or to issue orders or instructions.

(c) "Financial institution" means a company, savings bank, and loan association or

(2) Except as provided to a financial institution any person other than a financial institution has no effect or financial institution standing such notice or the orders and instructions without liability to the court or administrative agency.

History: 1977 c. 430; 1989

**710.07 Conveyance** by a tenant for life or years the tenant possessed or conveyed the tenant's estate or interest in the estate which such tenant

History: 1993 a. 486.

**710.10 Removal of possessor of property.** In the following cases any person who holds possession of property, or the representatives or assigns of such person may be removed under ch. 799 or 843.

(1) A person holding in violation of s. 704.17 (4), or of s. 704.19 (8).

(2) A tenant at sufferance holding without permission.

(3) A possessor of property which has been sold upon foreclosure of a mortgage if the possessor's rights were extinguished by the foreclosure.

(4) A person who occupies or holds property under an agreement with the owner to occupy and cultivate it upon shares and the time fixed in the agreement for such occupancy has expired.

History: 1971 c. 211; 1975 c. 198; 1979 c. 32 s. 92 (16); 1993 a. 486.

**710.11 Transfer of land where dam exists.** A person may not accept the transfer of the ownership of a specific piece of land on which a dam is physically located unless the person complies with s. 31.14 (4).

History: 1981 c. 246.

This section does not apply to cranberry dams. *Tenpas v. DNR*, 148 W (2d) 579, 436 NW (2d) 297 (1989).

**710.15 Mobile home park regulations. (1) DEFINITIONS.** In this section:

(a) "Lease" means a written agreement between an operator and a resident or mobile home occupant establishing the terms upon which the mobile home may be located in the park or the mobile home occupant may occupy a mobile home in the park.

(b) "Mobile home" has the meaning given under s. 66.058 (1) (d) but does not include any unit used primarily for camping, touring or recreational purposes.

(c) "Mobile home occupant" means a person who rents a mobile home in a park from an operator.

(d) "Operator" means a person engaged in the business of renting plots of ground or mobile homes in a park to mobile home owners or mobile home occupants.

(e) "Park" means a tract of land containing 2 or more plots of ground upon which mobile homes are located in exchange for the payment of rent or any other fee pursuant to a lease.

(f) "Resident" means a person who rents a mobile home site in a park from an operator.

(1m) **REQUIREMENT AND TERM OF LEASE.** Every agreement for the rental of a mobile home site or mobile home shall be by lease. Every lease shall be for a term of at least one year unless the resi-

home occupant requests a shorter term and the operator agrees to the shorter term.

INCLUDED IN LEASE. All park rules that substantially increase the duties of residents or mobile home occupants, including park rules under sub. (2m) (b), shall be included in every lease between them.

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REMOVAL OF MOBILE HOME

removal of a mobile home

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for any other lawful reason

(4m) NO INTEREST IN REAL ESTATE; SCREENING PERMITTED.

Neither sub. (3) (b) nor sub. (4) creates or extends any interest in

real estate or prohibits the lawful screening of prospective resi-

dents and mobile home occupants by an operator.

(5m) **TERMINATION OF TENANCY OR NONRENEWAL OF LEASE.**

Notwithstanding ss. 704.17 and 704.19, the tenancy of a resident

or mobile home occupant in a park may not be terminated, nor may

the renewal of the lease be denied by the park operator, except

upon any of the following grounds:

(a) Failure to pay rent due, or failure to pay taxes or any other

charges due for which the park owner or operator may be liable.

(b) Disorderly conduct that results in a disruption to the rights

of others to the peaceful enjoyment and use of the premises.

(c) Vandalism or commission of waste of the property.

(d) A breach of any term of the lease.

(e) Violation of park rules that endangers the health or safety

of others or disrupts the right to the peaceful enjoyment and use

of the premises by others, after written notice to cease the viola-

tion has been delivered to the resident or mobile home occupant.

(em) Violation of federal, state or local laws, rules or ordi-

nances relating to mobile homes after written notice to cease the

violation has been delivered to the resident or mobile home occu-

pant.

(f) The park owner or operator seeks to retire the park perman-

ently from the rental housing market.

(g) The park owner or operator is required to discontinue use

of the park for the purpose rented as a result of action taken against

the park owner or operator by local or state building or health

authorities and it is necessary for the premises to be vacated to sat-

isfy the relief sought by the action.

(h) The physical condition of the mobile home presents a threat

to the health or safety of its occupants or others in the park or, by

its physical appearance, disrupts the right to the enjoyment and

use of the park by others.

(i) Refusal to sign a lease.

(j) Material misrepresentation in the application for tenancy.

(k) Other good cause.

(5r) **NOTICE REQUIREMENTS APPLY.** The notice requirements of

s. 704.17 (1) (a), (2) (a) and (3) apply to a termination of tenancy

① Owner - occupied only  
② ~~changing resident so~~  
~~that actually living~~

Goal: Limit coverage  
of statu

only people living in  
own home would  
be protected

but

① avoid somebody  
operating as biz  
owning 5 houses  
renting → who  
is the landlord

② not to penalize  
someone who is  
→ signatory on lease

\* Park owner always signatory on lease